

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

Oscar Perez-Marquez,

Plaintiff,

v.

State of Nevada,

Defendant.

Case No. 2:22-cv-00796-GMN-DJA

**Order**

Before the Court is Plaintiff's "motion of direct notice." (ECF No. 27). In it, Plaintiff asserts that he has sent Nevada Attorney General Aaron D. Ford a Federal Rule of Civil Procedure 5.1 notice by certified mail. Plaintiff requests a copy of the Court's "certification of 28 U.S.C. § 2403 to Aaron D. Ford."

Under Federal Rule of Civil Procedure 5.1(a)(1), a party that files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute must promptly file a notice of constitutional question stating the question and the identifying paper that raises it. Under Federal Rule of Civil Procedure 5.1(a)(2), the party must also serve the notice and paper on the state attorney general (if a state statute is questioned) either by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose. Under Federal Rule of Civil Procedure 5.1(b), the court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned. 28 U.S.C. § 2403(b) provides: "[i]n any action...to which a State...is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn into question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence..."

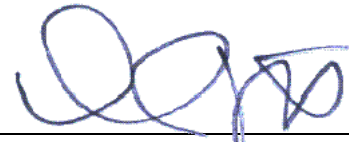
The Court denies Plaintiff's motion of direct notice. The Court is not required to notify the Attorney General of this action under 28 U.S.C. § 2403(b) because the State of Nevada is

1 already a party to this action. However, Plaintiff has yet to serve the State of Nevada despite the  
2 Court's order requiring him to serve the State of Nevada within thirty days after March 30, 2023.  
3 (ECF No. 23). The Court will thus require Plaintiff to show cause in a written response to this  
4 order why he has not served the State of Nevada. Plaintiff must file his response to this order on  
5 or before **November 1, 2023**.

6  
7 **IT IS THEREFORE ORDERED** that Plaintiff's motion of direct notice (ECF No. 27) is  
8 **denied**.

9 **IT IS FURTHER ORDERED** that Plaintiff must file a written response to this order on  
10 or before **November 1, 2023** explaining why he has not yet served the State of Nevada. **Failure**  
11 **to respond to this order may result in a recommendation to the district judge that this case**  
12 **be dismissed**.

13  
14 DATED: October 2, 2023



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DANIEL J. ALBRECHTS  
UNITED STATES MAGISTRATE JUDGE